Reserved Judgment

THE HIGH COURT OF UTTARANCAL AT NAINTAL.

Civil Misc. Writ Petition (M/S) No. 119 of 2004

Bhanu Pratap Singh Rawat S/O Sri Jagdish Singh Rawat
R/O 48/3, Haridwar Road, Dehradun.

… **Petitioner.**

Versus

1. Family Court, Dehradun,
2. Smt. Anupama Rawat, W/O Bhanu Pratap Singh, R/O through Kama Singh Seth, Mohalla Peer Bazar, Deenanath, Saharanpur.
3. Km. Akshita alias Aashi Rawat aged about 3 years (minor), D/O Bhanu Pratap Singh through mother and natural guardian Smt. Anupama Rawat R/O through Kama Singh Seth, Mohalla Peer Bazar Deenanath, Saharanpur.

…….. **Respondents.**

Sri Alok Singh, senior Advocate, learned counsel for the Petitioner.
Learned Standing Counsel for the respondent no. 1.
Sri Arvind Vashist, learned counsel for the respondents no. 2 & 3.

Date: March 21, 2006

(Hon'ble B.S. Verma, J.)

By the means of this writ petition, the petitioner prays for issue of a writ order or direction in the nature of certiorari quashing the order dated 12-2-2004 (Annexure -7) passed by the respondent no. 1 in matrimonial Misc. Case No. 68 of 2003, whereby the learned Judge, Family Court Dehradun allowed the application of the respondent nos. 2 and 3 and ordered the petitioner to pay maintenance allowance of Rs. 2,000/- per month to the respondents w.e.f. 5.5.2003 and expenses of litigation to the tune of Rs. 5,000/-, as mentioned in the impugned order.

Brief facts of the case, giving rise to the writ petition, are that the petitioner-husband filed a matrimonial case under Section 13 of the Hindu Marriage Act before the Judge, Family Court, Dehradun. Respondents- wife, which was registered as Original Suit No. 531 of 2002, Bhanu Patap Singh Rawat Vs. Anupama Rawat. During the pendency of the proceedings, the wife

for herself and on behalf of her minor daughter filed an application for interim maintenance and expenses of proceedings alleging therein that the husband himself had turned the applicant-wife along with the daughter from his house and that she was being ill- treated by the husband and his parents. It was stated that the applicant is unable to maintain herself. The respondent wife claimed maintenance of Rs. 6000/- per month along with expenses of litigation of Rs. 14,900/- from the petitioner-husband under Section 24 of the Hindu Marriage Act. It was stated that the husband is earning Rs. 10,000/- per month as salary from marketing besides Rs. 5,000/- per month as commission. It was also alleged that the husband has additional income from house rent etc.

The petition for maintenance and expenses was contested by the petitioner before the learned Family Judge. After hearing both the parties, the petition under Section 24 of the Hindu Marriage Act was allowed and the impugned order dated 12.2.2004 was passed ordering the husband to pay monthly maintenance of Rs. 2000/- along with Rs. 5,000/-as litigation expenses to the wife.

I have heard learned counsel for the parties and perused the entire material on record including the impugned order.

The only point urged on behalf of the petitioner in this writ petition is that the amounts of maintenance and litigation expenses awarded by he learned Judge, Family Court, Dehradun are excessive taking into consideration the poor financial status of the petitioner. A reference has been made to Annexure No. 6, which purports to be copy of a certificate issued by the owner of passenger bus No. URN-9405, dated 17-9-2003, wherein it has been stated that the petitioner is working as temporary conductor in the said bus and he is being Rs. 50/- per day as salary beside Rs. 15/- per days as diet money.

Before the Judge, Family Court, the petitioner had taken the said the stand that he is earning Rs. 50/- per day towards his wages besides Rs. 15/- as diet money from the work of conductor.

Considering the submission of the learned counsel for the petitioner that the amounts of alimony and litigation expenses may be suitably fixed and without expressing any specific opinion on the earning of the petitioner, I am of the view that the ends of justice would be served if the amount of maintenance is reduced to Rs. 1000/- per month instead of Rs. 2,000/- and that of litigation expenses from Rs. 5,000/- to Rs. 2,500/-. To this extent the impugned order is liable to be modified and the writ petition partly succeeds.

The writ petition is partly allowed. The impugned order dated 12-2-2004 is modified to the extent that the petitioner shall pay the maintenance allowance at the rate of Rs. 1,000/-(one thousand) per month along with litigation expenses of Rs. 2,500/-(two thousand five hundred) instead of Rs. 2000/- per month and Rs. 5,000/- respectively to the respondent nos. 2 and 3. The remaining part of he impugned order is maintained. It is however made clear that this order shall not have any bearing in any other proceedings for maintenance including under the provisions of Section 26 f the Hindu Marriage Act, if any, between the parties.
No order as to costs.

(B.S. Verma, J.)

RCP